

# House Study Bill 73 - Introduced

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL BY  
CHAIRPERSON COWNIE)

## A BILL FOR

1 An Act relating to state procurement processes.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION. **8A.311B Centralized purchasing —**  
2 **limitation on applicability.**

3     Sections 8A.311 and 8A.311A shall not apply to the  
4 procurement of any labor, materials, equipment, supplies,  
5 services, goods, and any other items that would otherwise be  
6 subject to chapter 26 or 573.

7     Sec. 2. Section 26.3, subsection 1, Code 2011, is amended  
8 to read as follows:

9     1. If the estimated total cost of a public improvement  
10 exceeds the competitive bid threshold of one hundred thousand  
11 dollars, or the adjusted competitive bid threshold established  
12 in section 314.1B, the governmental entity shall advertise for  
13 sealed bids for the proposed public improvement by publishing a  
14 notice to bidders. The notice to bidders shall be published  
15 at least once, not less than ~~four~~ twenty and not more than  
16 forty-five days before the date for filing bids, in a newspaper  
17 published at least once weekly and having general circulation  
18 in the geographic area served by the governmental entity.  
19 Additionally, the governmental entity may publish a notice in  
20 a relevant contractor organization publication and a relevant  
21 contractor plan room service with statewide circulation,  
22 provided that a notice is posted on a website sponsored by  
23 either a governmental entity or a statewide association that  
24 represents the governmental entity.

25     Sec. 3. Section 73A.18, Code 2011, is amended to read as  
26 follows:

27     **73A.18 When bids required — advertisement — deposit.**

28     When the estimated total cost of construction, erection,  
29 demolition, alteration or repair of a public improvement  
30 exceeds the competitive bid threshold in section 26.3, or as  
31 established in section 314.1B, the municipality shall advertise  
32 for bids on the proposed improvement by two publications in  
33 a newspaper published in the county in which the work is to  
34 be done. The first advertisement for bids shall be not less  
35 than ~~fifteen~~ twenty and not more than forty-five days prior to

1 the date set for receiving bids. The municipality shall let  
2 the work to the lowest responsible bidder submitting a sealed  
3 proposal. However, if in the judgment of the municipality  
4 bids received are not acceptable, all bids may be rejected and  
5 new bids requested. A bid shall be accompanied, in a separate  
6 envelope, by a deposit of money or a certified check or credit  
7 union certified share draft in an amount to be named in the  
8 advertisement for bids as security that the bidder will enter  
9 into a contract for the doing of the work. The municipality  
10 shall fix the bid security in an amount equal to at least five  
11 percent, but not more than ten percent of the estimated total  
12 cost of the work. The checks, share drafts or deposits of  
13 money of the unsuccessful bidders shall be returned as soon as  
14 the successful bidder is determined, and the check, share draft  
15 or deposit of money of the successful bidder shall be returned  
16 upon execution of the contract documents.

17 Sec. 4. ALTERNATIVE PROJECT DELIVERY PILOT PROGRAM.

18 1. The department of administrative services shall oversee  
19 an alternative project delivery pilot program. The object of  
20 the pilot project shall be to determine whether alternative  
21 project delivery can be an effective and efficient option  
22 for the state to use when renovating or constructing new  
23 facilities. The goal of the pilot project is to determine the  
24 level of effectiveness and efficiencies offered by alternative  
25 project delivery.

26 2. Starting on July 1, 2011, the department of  
27 administrative services shall select five projects in each of  
28 the next two years to utilize alternative project delivery.  
29 The department shall partner with a pilot project advisory  
30 committee to create a comprehensive procurement model for  
31 alternative project delivery. The pilot project advisory  
32 committee shall be composed of seven members who shall be  
33 appointed by the titular heads of the following entities:

- 34 a. Department of administrative services.  
35 b. American institute of architects, Iowa chapter.

1 c. American council of engineering companies of Iowa.  
2 d. Iowa chapter of the design-build institute of America.  
3 e. Master builders of Iowa.  
4 f. Mechanical contractors association of Iowa.  
5 g. Iowa state building and construction trades council.  
6 3. The appointee of the department of administrative  
7 services shall be the chairperson of the pilot project advisory  
8 committee.  
9 4. Each member of the pilot project advisory committee shall  
10 serve a two and one-half year term starting July 1, 2011, and  
11 ending December 31, 2013.  
12 5. Pilot project parameters shall include the following:  
13 a. Up to a maximum of five projects shall be selected in  
14 each of the next two fiscal years.  
15 b. The projects shall include renovation and new  
16 construction. The projects shall vary in size, complexity,  
17 scheduling, and cost.  
18 c. Selection of these projects shall be completed by October  
19 1, 2011, for fiscal year 2011-2012, and by October 1, 2012, for  
20 fiscal year 2012-2013.  
21 d. The director of the department of administrative  
22 services shall make the final selection of projects and type of  
23 alternative project delivery options.  
24 6. The pilot project advisory committee shall file a report  
25 to the general assembly at the start of each legislative  
26 session outlining pilot project performance. A final report  
27 shall be issued to the general assembly on January 1, 2014.  
28 7. Notwithstanding any other provision of the law to the  
29 contrary, a pilot project participant may utilize alternative  
30 project delivery procurement processes, as established by the  
31 pilot project advisory committee and approved by the director  
32 of the department of administrative services, on projects under  
33 the control of the department of administrative services.  
34 Notwithstanding any other provision of the law to the contrary,  
35 a pilot project participant selected for a pilot project under

1 this section is exempt from competitive bidding requirements  
2 under the Code on projects under the control of the department  
3 of administrative services. No other public entity other  
4 than a pilot project participant selected for a pilot  
5 project under this section shall be exempt from competitive  
6 bidding requirements under the Code. This authorization for  
7 construction management at risk and design-build procurement  
8 shall be for the sole and exclusive use of planning, acquiring,  
9 building, equipping, altering, repairing, improving, or  
10 demolishing any structure or appurtenance thereto, including  
11 facilities, utilities, or other improvements to any real  
12 property, but shall not include highways, roads, bridges, dams,  
13 turnpikes, or related structures, or stand-alone parking lots.  
14 8. It is the intent of this section that an appropriation of  
15 thirty thousand dollars from the rebuild Iowa infrastructure  
16 fund to the department of administrative services shall be used  
17 to cover expenses associated with administration and reporting  
18 requirements of the pilot project.

19 EXPLANATION

20 This bill relates to state procurement processes.

21 The bill provides that Code sections 8A.311 and 8A.311A,  
22 relating to competitive bidding and centralized purchasing  
23 procedures under the department of management, do not apply to  
24 the procurement of any labor, materials, equipment, supplies,  
25 services, goods, and any other items that would otherwise be  
26 subject to Code chapter 26 or 573.

27 The bill provides that under Code section 26.3, published  
28 notice to bidders for public improvement projects by the state  
29 or political subdivisions exceeding competitive bid thresholds  
30 must occur not less than 20 days before the date for filing  
31 bids. Current law requires that published notice must occur  
32 not less than four days before the date for filing bids.

33 The bill provides that under Code section 73A.18, published  
34 notice to bidders for public improvement projects by  
35 municipalities exceeding competitive bid thresholds must occur

1 not less than 20 and not more than 45 days before the date for  
2 filing bids. Current law requires that published notice must  
3 occur not less than 15 days before the date for filing bids.  
4 The bill creates an alternative project delivery pilot  
5 program to be overseen by the department of administrative  
6 services. The bill provides that the object of the pilot  
7 project is to determine whether alternative project delivery  
8 can be an effective and efficient option for the state to use  
9 when renovating or constructing new facilities. The bill  
10 provides that the goal of the pilot project is to determine the  
11 level of effectiveness and efficiencies offered by alternative  
12 project delivery. The bill provides that starting on July 1,  
13 2011, the department of administrative services will select  
14 five projects in each of the next two years to use alternative  
15 project delivery. The bill provides for a pilot project  
16 advisory committee with seven members who shall be appointed  
17 by the heads of certain public and private entities. The bill  
18 provides that the appointee of the department of administrative  
19 services will be the chairperson of the committee. The  
20 bill directs the department of administrative services to  
21 partner with the pilot project advisory committee to create  
22 a comprehensive procurement model for alternative project  
23 delivery. The bill provides that each member of the committee  
24 will serve a two and one-half year term starting July 1, 2011,  
25 and ending December 31, 2013. The bill sets out certain  
26 parameters for the pilot project, including that the director  
27 of the department of administrative services will make the  
28 final determination for selection of projects and type of  
29 alternative project delivery options. The bill directs the  
30 committee to file a report to the legislature at the start of  
31 each legislative session outlining pilot project performance  
32 with a final report to be issued on January 1, 2014. The bill  
33 authorizes a pilot project participant to utilize alternative  
34 project delivery procurement processes, as established by the  
35 pilot project advisory committee and the director, on projects

1 under the control of the department of administrative services.  
2 The bill exempts pilot project participants from competitive  
3 bidding requirements under the Iowa Code. The bill specifies  
4 that no other public entity other than a pilot project  
5 participant is granted such an exemption. The bill defines  
6 the scope of authorized uses for construction management at  
7 risk and design-build procurement. The bill includes intent  
8 language that provides that an appropriation of \$30,000  
9 from the rebuild Iowa infrastructure fund to the department  
10 of administrative services will be used to cover expenses  
11 associated with administration and reporting requirements of  
12 the pilot project.